

Senate Bill No. 248

Passed the Senate September 7, 2005

Secretary of the Senate

Passed the Assembly September 6, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 473.15, 1601.1, 1616.5, 1742, and 4929 of, to repeal Section 4929.5 of, and to repeal and add Sections 4928 and 4934 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 248, Figueroa. Professions and vocations.

(1) The Osteopathic Initiative Act provides for the creation of the Osteopathic Medical Board of California to license and regulate osteopathic physicians. Existing law requires the board to prepare an analysis and submit a report, containing specified information, to the Joint Committee on Boards, Commissions, and Consumer Protection on or before September 1, 2004.

This bill would require the board to prepare the analysis and submit the report to the Joint Committee on Boards, Commissions, and Consumer Protection on or before September 1, 2010.

(2) Existing law provides for the licensure and regulation of the practice of dentistry by the Dental Board of California, and authorizes the board to appoint an executive officer. Existing law also establishes the Committee on Dental Auxiliaries within the jurisdiction of the board. The provisions establishing the board, authorizing the board to appoint an executive officer, and establishing the committee are inoperative as of July 1, 2006, and are repealed as of January 1, 2007.

This bill would instead make these provisions inoperative and repealed on July 1, 2010, and January 1, 2011, respectively.

(3) The Acupuncture License Act provides for licensing and regulation of acupuncturists by the Acupuncture Board, which consists of 9 members. Under existing law, the provisions governing the board and its executive director become inoperative on July 1, 2006, and are repealed on January 1, 2007.

This bill would provide for repeal of the board on January 1, 2006. The bill would create a new board of 7 members with a revised membership. The bill would authorize an appointing power to appoint a member to the new board who was a member of the prior board. The provisions governing the new board and

its executive director would become inoperative on July 1, 2008, and would be repealed on January 1, 2009.

The people of the State of California do enact as follows:

SECTION 0.5. Section 473.15 of the Business and Professions Code is amended to read:

473.15. (a) The Joint Committee on Boards, Commissions, and Consumer Protection established pursuant to Section 473 shall review the following boards established by initiative measures, as provided in this section:

(1) The State Board of Chiropractic Examiners established by an initiative measure approved by electors November 7, 1922.

(2) The Osteopathic Medical Board of California established by an initiative measure approved June 2, 1913, and acts amendatory thereto approved by electors November 7, 1922.

(b) The Osteopathic Medical Board of California shall prepare an analysis and submit a report as described in subdivisions (a) to (e), inclusive, of Section 473.2, to the Joint Committee on Boards, Commissions, and Consumer Protection on or before September 1, 2010.

(c) The State Board of Chiropractic Examiners shall prepare an analysis and submit a report as described in subdivisions (a) to (e), inclusive, of Section 473.2, to the Joint Committee on Boards, Commissions, and Consumer Protection on or before September 1, 2005.

(d) The Joint Committee on Boards, Commissions, and Consumer Protection shall, during the interim recess of 2004 for the Osteopathic Medical Board of California, and during the interim recess of 2005 for the State Board of Chiropractic Examiners, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, the public, and the regulated industry. In that hearing, each board shall be prepared to demonstrate a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare.

(e) The Joint Committee on Boards, Commissions, and Consumer Protection shall evaluate and make determinations

pursuant to Section 473.4 and shall report its findings and recommendations to the department as provided in Section 473.5.

(f) In the exercise of its inherent power to make investigations and ascertain facts to formulate public policy and determine the necessity and expediency of contemplated legislation for the protection of the public health, safety, and welfare, it is the intent of the Legislature that the State Board of Chiropractic Examiners and the Osteopathic Medical Board of California be reviewed pursuant to this section.

(g) It is not the intent of the Legislature in requiring a review under this section to amend the initiative measures that established the State Board of Chiropractic Examiners or the Osteopathic Medical Board of California.

SECTION 1. Section 1601.1 of the Business and Professions Code is amended to read:

1601.1. (a) There shall be in the Department of Consumer Affairs the Dental Board of California in which the administration of this chapter is vested. The board shall consist of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. Of the eight practicing dentists, one shall be a member of a faculty of any California dental college and one shall be a dentist practicing in a nonprofit community clinic. The appointing powers, described in Section 1603, may appoint to the board a person who was a member of the prior board. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate.

(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.

(c) The board shall have all authority previously vested in the existing board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.

(d) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 2. Section 1616.5 of the Business and Professions Code is amended to read:

1616.5. (a) The board, by and with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 1742 of the Business and Professions Code is amended to read:

1742. (a) There is within the jurisdiction of the board a Committee on Dental Auxiliaries.

(b) The Committee on Dental Auxiliaries shall have the following areas of responsibility and duties:

(1) The committee shall have the following duties and authority related to education programs and curriculum:

(A) Shall evaluate all dental auxiliary programs applying for board approval in accordance with board rules governing the programs.

(B) May appoint board members to any evaluation committee. Board members so appointed shall not make a final decision on the issue of program or course approval.

(C) Shall report and make recommendations to the board as to whether a program or course qualifies for approval. The board retains the final authority to grant or deny approval to a program or course.

(D) Shall review and document any alleged deficiencies that might warrant board action to withdraw or revoke approval of a program or course, at the request of the board.

(E) May review and document any alleged deficiencies that might warrant board action to withdraw or revoke approval of a program or course, at its own initiation.

(2) The committee shall have the following duties and authority related to applications:

(A) Shall review and evaluate all applications for licensure in the various dental auxiliary categories to ascertain whether a

candidate meets the appropriate licensing requirements specified by statute and board regulations.

(B) Shall maintain application records, cashier application fees, and perform any other ministerial tasks as are incidental to the application process.

(C) May delegate any or all of the functions in this paragraph to its staff.

(D) Shall issue auxiliary licenses in all cases, except where there is a question as to a licensing requirement. The board retains final authority to interpret any licensing requirement. If a question arises in the area of interpreting any licensing requirement, it shall be presented by the committee to the board for resolution.

(3) The committee shall have the following duties and authority regarding examinations:

(A) Shall advise the board as to the type of license examination it deems appropriate for the various dental auxiliary license categories.

(B) Shall, at the direction of the board, develop or cause to be developed, administer, or both, examinations in accordance with the board's instructions and periodically report to the board on the progress of those examinations. The following shall apply to the examination procedure:

(i) The examination shall be submitted to the board for its approval prior to its initial administration.

(ii) Once an examination has been approved by the board, no further approval is required unless a major modification is made to the examination.

(iii) The committee shall report to the board on the results of each examination and shall, where appropriate, recommend pass points.

(iv) The board shall set pass points for all dental auxiliary licensing examinations.

(C) May appoint board members to any examination committee established pursuant to subparagraph (B).

(4) The committee shall periodically report and make recommendations to the board concerning the level of fees for dental auxiliaries and the need for any legislative fee increase. However, the board retains final authority to set all fees.

(5) The committee shall be responsible for all aspects of the license renewal process, which shall be accomplished in accordance with this chapter and board regulations. The committee may delegate any or all of its functions under this paragraph to its staff.

(6) The committee shall have no authority with respect to the approval of continuing education providers; the board retains all of this authority.

(7) The committee shall advise the board as to appropriate standards of conduct for auxiliaries, the proper ordering of enforcement priorities, and any other enforcement-related matters that the board may, in the future, delegate to the committee. The board shall retain all authority with respect to the enforcement actions, including, but not limited to, complaint resolution, investigation, and disciplinary action against auxiliaries.

(8) The committee shall have the following duties regarding regulations:

(A) To review and evaluate all suggestions or requests for regulatory changes related to dental auxiliaries.

(B) To report and make recommendations to the board, after consultation with departmental legal counsel and the board's executive officer.

(C) To include in any report regarding a proposed regulatory change, at a minimum, the specific language of the proposed changes and the reasons for and facts supporting the need for the change. The board has the final rulemaking authority.

(c) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the committee subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 4. Section 4928 of the Business and Professions Code is repealed.

SEC. 5. Section 4928 is added to the Business and Professions Code, to read:

4928. The Acupuncture Board, which consists of seven members, shall enforce and administer this chapter. The appointing powers, as described in Section 4929, may appoint to

the board a person who was a member of the prior board prior to the repeal of that board on January 1, 2006.

This section shall become inoperative on July 1, 2008, and as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 6. Section 4929 of the Business and Professions Code is amended to read:

4929. Three members of the board shall be acupuncturists with at least five years of experience in acupuncture and four members shall be public members who do not hold a license or certificate as a physician and surgeon or acupuncturist. The acupuncturist members shall be appointed to represent a cross section of the cultural backgrounds of licensed members of the acupuncturist profession.

The Governor shall appoint the three acupuncturist members and two of the public members. All members appointed to the board by the Governor shall be subject to confirmation by the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member. Any member of the board may be removed by the appointing power for neglect of duty, misconduct, or malfeasance in office, after being provided with a written statement of the charges and an opportunity to be heard.

SEC. 7. Section 4929.5 of the Business and Professions Code is repealed.

SEC. 8. Section 4934 of the Business and Professions Code is repealed.

SEC. 9. Section 4934 is added to the Business and Professions Code, to read:

4934. (a) The board, by and with the approval of the director, may employ personnel necessary for the administration of this chapter, and the board, by and with the approval of the director, may appoint an executive officer who is exempt from the provisions of the Civil Service Act.

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute,

which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

Approved _____, 2005

Governor